



CALL TO ORDER & ATTENDANCE

Chair Pete Woll called the June 14, 2021, 310-Stream Permit meeting to order at 7:00 P.M. in the conference room.

Board members present:

Pete Woll, Chair; John Ellis Vice Chair; Lech Naumovich, Secretary/Treasurer; Donna Pridmore, Supervisor; Scott Rumsey, Supervisor; Verdell Jackson Supervisor; being a quorum of the Board.

Also, in attendance were Hailey Graf, Samantha Tappenbeck, Ginger Kauffman, Flathead Conservation District (FCD) Staff; Sandy Heil; Bill Whitsitt; John Jones; Michelle Glazier; Bruce Boody; Kate Walker; Bill & Dena Brunskill; Brian Hogue; Brock Sandry; Debbie Carlson; Emily Harkness, FCD Associate Supervisor; Fiona Handler, BSWCM; Harold Kowalka; Jeff Whitlock, FH Stoltze L&L; Joe & Therese Kashi; Kenny Breidinger, FWP; Kody Coxen, FCD Associate Supervisor; Melissa Brickl; Mitch King, Montana Outdoor Legacy Foundation (MOLF); Roger Noble; Steve Rosso; Casey Heitz; Mike Cotton, FH Stoltze; Marcus & Jeanne Carlson; Ruthanne Coffeey,

CONSENT AGENDA

Consent Agenda Item 1: Signature Authority

- Authorization for Hailey Graf to sign on behalf of Supervisors attending the meeting virtually.

Consent Agenda Item 2: Phone Poll

- 5/20/2021 – PacifiCorp, FL-2021-031, Swan River, remove & replace screens
- 6/8/2021 – Lipinski-Kashi, FL- 2021-025, Ashley Creek, permit modification

Consent Agenda Item 3: Tabled 310's

- Griffin, FL-2020-060C, Garnier Creek, complaint
- Hodge Creek Reserve, FL-2021-003, Hodge Creek, culvert/bank stabilization
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Consent Agenda Item 4: Minutes

- 05/13/2021 Budget Meeting Minutes
- 05/24/2021 Business Meeting Minutes
- 06/10/2021 Budget & Strategic Planning Meeting Minutes

Consent Agenda Item: Financial

The following bills were reviewed - Check Detail 05/25/2021 – 5/26/2021

1. VISA – Hailey Graf \$1,771.70

2. VISA – Samantha Tappenbeck \$164.84
3. VISA – Pete Woll \$28.75
4. CenturyLink \$325.86
5. Grizzly Security ShredEx \$40.00
6. Montana Sky Networks \$10.00
7. NWCC Sheridan Wyoming College \$3,000.00
8. River Design Group Inc. \$690.00
9. Rocky Mountain College \$1,500.00
10. St. Lawrence University \$2,500.00
11. WGM Group \$3,806.76
12. Lewis & Clark CD \$250.00

The following bills were reviewed - Check Detail 06/9/2021

1. Byte Savvy \$100.00
2. Core Water Consulting LLC \$1,535.00
3. Daily Interlake \$237.46
4. Flathead Beacon \$528.00
5. MACO \$4,182.55
6. Montana State Fund \$597.46
7. Susan D. Hulslander, CPA \$120.00
8. UOM \$1,500.00

Consent Agenda Item 5: Correspondence

Donna Pridmore motioned “to approve the Consent Agenda as presented.” Verdell Jackson seconded. Motion carried unanimously.

PUBLIC COMMENT PERIOD

No one was present to comment on items not listed on the agenda.

310

Beatty, FL-2020-070, Flathead River, bank stabilization/dock/permit extension request: It was noted that the permit expires 1/25/2022 and it is too soon to request an extension. The extension request will be closed.

Donna Pridmore motioned “to table and contact the applicant about the timing of the extension request.” Lech Naumovich seconded. Motion carried unanimously.

Brunskill, FL-2021-016, Flathead River, platform/dock/rock: Pete Woll stated that the Supervisors had seen the site and asked if they had any comments. Donna Pridmore stated if we are serious about repairing the wetland and dealing with the unpermitted structures, then this permit should be denied. Kenny Breidinger stated the channels are open through the wetland from the traffic that goes through them, even the historical aerial photos show this. The channels were constructed to where the dock was installed.

John Ellis stated the damage done to the vegetation is on Montana Outdoor Legacy Foundation (MOLF) property. If they want to stop the damage, they should do something. Kenny Breidinger replied the MOLF property is below the highwater which Brunskill accesses during high water. MOLF cannot set up a fence to block public access, but could restore the channels, trapping fine sediments so the vegetation will come back and stop the traffic through their property. John asked about stream access, and Kenny replied that the public has access to the stream but cannot trespass or vandalize MOLF property. Hailey Graf provided you can float on water but cannot create additional open water. Donna added Brunskill did not have access until that channel was cut. John asked the board for input on how the actions taken by the Brunskills violate the FCD Adopted Rules. Pete stated the kayak rack and the dock on the bank of the stream are within the jurisdiction of the district and were installed without a permit.

Pete asked for other comments. Mitch King, MOLF, stated that the survey pins have been re-identified. Brunskill's did pull the dock back on to their property, but the last two pilings are in the cattails/wetland area. He described that the channels were not created by deer. There has been cutting of vegetation and trees, digging, and motorized equipment and vehicles have been moving through to keep the channels open. FCD did a restoration planting of native riparian species within the wetland, and MOLF wants to stop erosion and re-allow sediment to redeposit in those channels and return the wetland to its natural ecological integrity.

Lech Naumovich asked about the planting, and Samantha Tappenbeck explained that this spring FCD did a restoration planting within the MOLF property. FCD planted native riparian species, not just in front of the Brunskill property, but all along the length of the MOLF property, which is approximately ¼ mile long. Mitch King added that MOLF wants to work with the FCD to do more restoration along the entire shoreline, and explained that, with the help of neighbors, engineering firms were contacted for information on putting in vegetative logs to stop erosion which will allow sediment to build up behind the vegetation in the channels. It would also help to stop wave action, stop motorized vehicles from moving through the channels, restore the entire wetland strip and reestablish the shoreline.

Steve Rosso stated the Flathead Lakers encourage FCD to stand by its previous decision to require the applicant to remove the dock platform. He noted that it is the dock platform that is attracting people to go through those wetlands. Without that dock and access there, people would not be using those channels and trying to further develop those channels. He added that the Flathead Lakers thank FCD for protecting the wetlands and other conservation areas throughout the county.

John questioned how the wetland and application fit together. Pete replied that the Brunskill application has brought the issue of the wetland to light. If the application is denied, we will need to contact other landowners that have also built structures without permits along the wetland area. If we are doing this as a conservation and restoration effort, we must address both.

Verdell Jackson asked if the dock platform must be removed. Hailey Graf responded that in 2020, Brunskill's submitted an after the fact 310-permit application for a dock/platform, which had been installed without a permit. The application was denied, and the landowners were to remove the AstroTurf, dock, and kayak rack from the site. They did not remove the dock/platform and have applied for a permit to keep the dock.

Dena Brunskill stated the others built their docks before the district owned the property. Regarding her property, she did not think she needed a permit. She said a woman from the district named Jane came to her property and Dena told her they were not going to make anything permanent, and Mitch King did not have a problem. Only one access point was dug out, not with chain saws or anything like that, it was a guest in their home that did that with a knife. When the survey was done deer were in there. Dena continued, stating they are responsible for the one channel that was dug because it was done by a guest in their home, and they will do whatever they need to do to restore that, but all the other channels were there. She also reiterated that they previously moved the dock back by three feet because Mitch King informed them it was over their property line and that they removed the Astro Turf because the FCD asked them to.

Pete Woll clarified that the FCD has always had jurisdiction of the wetland area under the 310-law, regardless of the owner. All the other structures placed on the bank were placed without permits. Only one dock at the north end was permitted as it was in the old irrigation site/channel that had been dug prior to Eagle Bend coming into existence.

Donna Pridmore motioned "to deny the application because of the potential for damage to the natural resources and because the items indicated in the application are not a reasonable alternative for accomplishing the objective." Lech Naumovich seconded.

Donna clarified the denial is for a dock, crushed mulch, rock, platform/dock. She added MOLF wants to do future restoration work on the channel and noted that if we permit this it would be hypocritical to call anyone else to task about their unpermitted docks.

Lech Naumovich explained he had reviewed aerial photos that showed a dramatic change from 2016. The dock on Brunskill property was installed sometime between 2016/2017 and you can see a dramatic change in the vegetation/wetland. That vegetation/wetland is significant in terms of protecting floodplain, silt deposition, and from run off. This wetland is a buffer, which many agencies work hard to create for improving water quality and fish habitat. The dock is in violation, and the imagery shows that.

John Ellis asked that the Board have a record of why the application is being denied. Hailey replied that she had a conversation with Caitlin Overland and the conservation district does not have to deny something only when it is a violation of the AR's. The Board can look at the stated objective of the application, and judge whether the proposed actions are a reasonable alternative for accomplishing that objective. Hailey noted that this neighborhood/subdivision has access to Flathead River at the marina and at other sites. If the Board feels this access site is creating undo degradation to the wetland, then there

is the option to deem it not a reasonable alternative to accomplish this objective. The board agreed with this and added it to the motion.

Scott Rumsey added that the stream access law allows for legal ingress and egress to the stream however it does not allow for degradation of property, habitat, and alteration of that site.

Question was called. Motion carried.

Buck, FL-2021-041C, Stoner Creek, complaint: An onsite inspection was scheduled for Friday, June 25, 9:30 A.M. at the site.

Buck, FL-2021-048, Stoner Creek, bank stabilization/path: An onsite inspection was scheduled for Friday, June 25, 9:30 A.M. at the site.

Butts, FL-2021-045C, Unnamed, complaint: Donna Pridmore explained that this complaint is similar to the last complaint (FL2019056C), which was satisfied, and the permit (FL-2020-002) was approved. Kenny Breidinger noted we have already determined that it would do more damage to remove the culvert than to leave it in place.

Lech Naumovich motioned "to table the complaint and consult with legal." Verdell Jackson seconded. Motion carried unanimously.

Carlson, FL-2021-021, Flathead River, bank stabilization/permit extension request: Pete Woll motioned "to approve a one-year permit extension." John Ellis seconded.

Mr. Carlson explained that they are requesting an extension for health reasons and due to issues with the Floodplain permit. Flathead County Planning & Zoning is requiring them to hire an engineer to certify the repair will withstand a 100-year flood. Carlson's explained to Floodplain that they want to place 2 loads of rock, no other fill, however, Floodplain is treating this as a new project.

It was noted that the current permit expires 4/12/2022. Pete Woll stated that it is too early to request an extension. If the work is not completed prior to the expiration date, the landowners should request an extension then. The extension request will be closed.

Pete Woll motioned "to rescind the motion." John Ellis agreed to withdraw the second.

Carlson, FL-2021-044C, Stoner Creek, complaint: An onsite inspection was scheduled for Friday, June 25, 10:00 A.M. at the site.

FH Stoltze L&L, FL-2021-023, Various streams, annual road maintenance/culvert extension: An onsite inspection was scheduled for Friday, June 18, 8:30 A.M. at FH Stoltze office.

FH Stoltze L&L, FL-2021-024, S. Fork Canyon Creek, channel alt/div: An onsite inspection was scheduled for Friday, June 18, 8:30 A.M. at FH Stoltze office.

FH Stoltze L&L, FL-2021-051, Unnamed, remove & replace bridge: An onsite inspection was scheduled for Friday, June 18, 8:30 A.M. at FH Stoltze office.

Gabbert, FL-2021-018C, Bales Creek, complaint: Donna Pridmore stated that the complainant filed a similar complaint (FL2018049C) in 2018, which was determined not a violation.

Donna Pridmore motioned “to table and consult with legal.” Lech Naumovich seconded. Motion carried unanimously.

Goldberg, FL-2021-040, Swan River, gangway/dock: Pete Woll reported the dock, as submitted in the application, was not in compliance with the Adopted Rules, so the landowner agreed to move the gangway inland 4-feet to put it in compliance.

Pete Woll motioned “to approve the application with modifications per the Team Member Report.” John Ellis seconded. Motion carried unanimously.

Griffin, FL-2021-022, Garnier Creek, shed: An onsite inspection was scheduled for Friday, June 18, 11:00 AM at the site.

Grob Family Trust, FL-2021-052E, Unnamed, notice of emergency: An onsite inspection was scheduled for Wednesday, June 23, 9:00 A.M. at the turn off to the Red Gate Road.

Heil, FL-2021-032, Blaine Creek, culverts: Pete Woll explained the landowner wants to remove the culverts and put in a bridge. They are also requesting a 90-day extension to complete the design and then do the work in the fall.

Brian Hogue stated that it is a better plan and asked if the culverts could be removed now to allow downstream landowners access to the water. Roger Noble noted that one of the culverts is in a neutral position so it will pass water if the lake reaches full pool. Also, the Heil’s use the house in the summer, mow law, and access the property at least once a week, so pulling the culverts would prevent their access to the property.

Pete Woll motioned “to grant a 90-day extension to design the bridge, and to do the work this fall.” Donna Pridmore seconded. Motion carried unanimously.

Heitz, FL-2021-029, Flathead River, dock/jet ski ports/shore ramp: Pete Woll explained the applicant wants to remove the old dock, which is deteriorating, and put in a floating dock of the same size. Kenny Breidinger agreed that it meets the Adopted Rules.

Pete Woll motioned “to approve the application with modifications per the Team Member Report. Modifications are the existing dock will be removed and will be replaced with a similar floating dock.” Scott Rumsey seconded. Motion carried unanimously.

Johnson, FL-2021-038, O'Neil Creek, culverts: Verdell Jackson stated an onsite inspection was held May 25th. Kenny Breidinger explained that the landowner has two old culverts on the property, which he did not put in. The culvert upstream was poorly placed, is undersized and poorly installed. The culvert is set in a meander bend and water goes around it. The proposal in the application will not fix the problem and a better solution is needed.

Verdell Jackson motioned "to table the application until additional information is received from the applicant." John Ellis seconded. Motion carried unanimously.

Jones, FL-2021-049, Unnamed, culvert: An onsite inspection was scheduled for Thursday, July 8, 10:20 A.M. at the site.

Kahle, FL-2021-037, Whitefish River, dock/gangway/steps, re-schedule onsite: An onsite inspection was scheduled for Friday, June 18, noon at the site.

Kowalka, FL-2021-039, Lost Creek, culvert: The landowner explained that he wants to remove the bridge and replace it with a 36-inch round culvert, 26-feet in length, and that the road will be crowned away from the stream. Kenny Breidinger noted that it follows the Adopted Rules.

Verdell Jackson motioned "to approve the application with modifications per the Team Member Report. The 15-day waiting period is waived." Donna Pridmore seconded. Motion carried unanimously.

Kummerfeldt, FL-2021-033E, Whale Creek, notice of emergency: Scott Rumsey explained that an onsite inspection was held on May 14th. On May 18th, the district was notified that it was no longer an emergency as highwater had removed the tree from the site.

Scott Rumsey motioned "to close the file because highwater removed the tree from the site." John Ellis seconded. Motion carried unanimously.

LeDonne, FL-2021-036, Flathead River, steps: Lech Naumovich explained that the landowner wants to place stone steps going down the bank from a building site. The building site is flat then drops off. Two possible sites for the steps were look at, however, only one set of steps will be allowed. The landowner also wants to place downed wood on the outside of the trail to confine the deer trail. Kenny Breidinger noted that the steps would begin at the top of the bank, then go to a deer trail which leads to the river. Lech and Kenny agreed there would be little to no impacts.

Lech Naumovich motioned "to approve the application with modifications per the Team Member Report." Verdell Jackson seconded. Motion carried unanimously.

Legacy Mtn, FL-2020-064C, Unnamed, complaint/Technical Review: Verdell Jackson motioned "to close the file. This is not under of the jurisdiction of the district because it is

not a perennial stream as provided by the technical review.” Lech Naumovich seconded. Motion carried unanimously.

Legacy Mtn, FL-2021-002C, Unnamed, complaint/Technical Review: Verdell Jackson motioned “to close the file. This is not under of the jurisdiction of the district because it is not a perennial stream as provided by the technical review.” Lech Naumovich seconded. Motion carried unanimously.

Lipinski-Kashi, FL-2021-047, Ashley Creek, fencing: An onsite inspection was scheduled for Monday, June 21, 8:30 A.M. at the site.

95 Karrow LLC, FL-2021-027, Whitefish River, grading/dock/trail etc.: John Ellis explained that as of May 20th, all items, and modifications, except the material for the walking path, have been approved. At the May 20th meeting the applicants were asked to research alternatives to asphalt and bring that information back to the board.

Roger Noble provided information regarding alternatives to asphalt, noting that the list included concrete, crushed aggregate, surfacing additive, rubber, plastic, chemical soil binder, and asphalt; and in looking at these alternatives they considered longevity, durability, affordability, maintenance, and all types of traffic from walking to ADA compliance.

Roger went through options:

1. Concrete is cost prohibitive
2. Crushed aggregate does not bind together, is not ADA compatible, has potential for increased erosion, and annual maintenance would be required
3. Surfacing additives: If there is any shifting or heavy traffic, the surface tears apart like a paper towel, and there would be maintenance issues.
4. Chemical soil binders leach out into waterways.

Kate Walker added that the resin based paving system, Natural Pave, which Lech Naumovich asked about, is no longer available and there is no substitute material.

Roger stated that under construction materials in the AR’s asphalt is prohibited but does not say why. Asphalt does not leach or degrade water quality and is a viable alternative upon research. He added that the trail will be in-sloped, and given the distance from the stream, asphalt would be appropriate and is the preferred alternative.

Donna Pridmore stated she appreciated the research, information and work that was done, and wondered if the board should consider amending the AR’s for asphalt. Pete Woll noted that the AR’s are guidelines, and the board can deviate from the AR’s if we document why in the permit.

John Ellis stated the applicants have been amenable to make changes to points of concern. Kenny Breidinger reminded the board that this is a large imperviable trail that runs right on the streambank, it will have substantial impacts to the streambank, and there are reasonable alternatives such as moving the trail up higher on the bank to minimize the

impacts to Whitefish River. John responded that at the 5/20 meeting the applicants had moved the trail section between the bridge and the dock further away from the streambank. Bruce Boody stated the trail will be in-sloped to an inside absorption area and water will filter through gravel and different soils.

Lech summarized the discussion and noted that the district needs to send a letter to the City of Whitefish to resolve the trail issue for future projects. Lech asked Roger to submit, in writing, the alternative information he presented to the board for documentation. Pete noted that the letter should bring into fact that the trail should not be built on the water's edge but needs to be back away from stream. Donna added this trail is a continuation of the total Whitefish city trails, and a lot of those sections are not permitted. It seems Whitefish continues to go against regulations, state law and the district's AR's. The City of Whitefish needs to follow those laws. Lech stated we need to let the city know we will not approve any more projects until they comply with state law. Kenny commented that when a 124 permit is issued other government agencies are held to specific standards. The City of Whitefish has put this project in a bad spot, 95 Karrow is being forced to place the trail where it is. He noted that a 124-permit would not be issued to Montana Department of Transportation for a road, like this trail, that is on the streambank.

John Ellis motioned "to approve the trail as set forth in the amended drawings submitted by the applicant on 5/20/2021." Donna Pridmore seconded. Motion carried unanimously.

John Ellis and Lech Naumovich will work on the letter to the City of Whitefish. Roger Noble noted that he will submit his findings in a memo to the district and provided he would participate in a committee to update the Adopted Rules if needed.

Peerman, FL-2021-046C, Stillwater River, complaint: Verdell Jackson explained that a complaint letter was sent 6/1/2021, however, a response has not yet been received.

Verdell Jackson motioned "to table pending a response to the complaint letter." Lech Naumovich seconded. Motion carried unanimously.

Scott, FL-2021-050, Flathead River, remove and replace boathouse & lift: An onsite inspection was scheduled for Wednesday, June 23, 3:30 P.M. at the site.

Smoke Showing LLC/Roberts, FL-2021-043, Swan River, dock/gangway/stairs: An onsite inspection was scheduled for Thursday, July 1, 9:20-9:30 A.M. at the site.

Stromsted, FL-2021-035, Flathead River, bank stabilization: Lech Naumovich explained that the project had previously been approved, however the permit expired so a new application was submitted.

Lech Naumovich motioned "to approve the application with modifications per the Team Member Report." John Ellis seconded. Motion carried unanimously.

Wachholz, FL-2021-042, Wild Bill Creek, utilities: Donna Pridmore and Kenny Breidinger agreed that the application meets the Adopted Rules for utilities and waived the onsite inspection.

Donna Pridmore motioned “to approve the application as submitted.” John Ellis seconded. Motion carried unanimously.

NEW BUSINESS

Watershed Support Program contract amendment: Samantha Tappenbeck explained the amendment is to include the option to cap or repair the irrigation pipeline in the budget.

John Ellis motioned “to approve the contract amendment to include the option to cap or repair the irrigation pipe.” Verdell Jackson seconded. Motion carried unanimously.

MATTERS OF THE BOARD/STAFF

- Supervisor 310 Training, September 2nd
- Flathead CD Open House Event, Thursday, September 9th
- Hailey Graf explained that DEQ is asking MACD to provide a nominee from conservation districts west of the Continental Divide for the Montana Nutrient Work Group. Both CD Supervisors and CD Staff can be nominated. Samantha Tappenbeck offered her time if no one else volunteered.

Lech Naumovich motioned “to nominate Samantha Tappenbeck to the open position on the Montana Nutrient Work Group.” Verdell Jackson seconded. Motion carried unanimously.

- Ronald Buentemeier Retirement, July 19th
- NW MT Fair, August 18th - 22nd
- Conservation Grant final inspections

The next meeting is scheduled for Monday, June 28, 2021, 7:00 P.M. via ZOOM.

Adjournment: Verdell Jackson motioned “to adjourn.” John Ellis seconded. Motion carried unanimously. As there was no further business, the meeting was adjourned at 10:55 P.M.

Submitted By:

Ginger Kauffman
Administrator

Hailey Graf
Resource Conservationist

Minutes approved by FCD Board motion made on:

<u>6/28/2021</u>	<u>John Ellis</u>	<u>Vice-Chair</u>
(Date)	(Signature)	(Title - Chair etc.)